SENATE RECORD VOTE ANALYSIS

104th Congress — November 9, 1995, 5:13 p.m.
1st Session — **Vote No. 564** — Page S-16885 Temp. Record

SECOND CONTINUING APPROPRIATIONS/Public Funding & Lobbying

SUBJECT: **Second Continuing Appropriations Bill for fiscal year 1996 . . . H.J. Res. 115. Craig modified amendment No. 3049 to the Simpson perfecting amendment No. 3048 to the language proposed to be stricken by the Campbell amendment No. 3045.**

ACTION: AMENDMENT REJECTED, 46-49

SYNOPSIS: As introduced, H.J. Res. 115, the Second Continuing Appropriations Bill for fiscal year 1996, will provide limited funding through December 1, 1995 for Federal programs that have not yet had fiscal year (FY) 1996 appropriations enacted for them. It also will: terminate several small programs; prohibit Federal funding from going to organizations that engage in lobbying activities; keep the Medicare Part B premium at 31.5 percent; and expand Medicare coverage to include oral hormonal drugs for treating breast cancer.

The Campbell amendment would strike the section that will impose restrictions on lobbying by Federal grantees. The specifics of those restrictions are as follows:

- 501(c)(4) tax-exempt organizations with gross revenues of more than $3 million and which engage in lobbying will be ineligible for Federal awards, grants, or loans;
- organizations that receive more than one-third of their revenues in Federal grants and spend $100,000 or more a year on lobbying activities will lose eligibility for Federal awards, grants, or loans;
- limitations on grant eligibility based on political advocacy will not apply to organizations that spend less than $25,000 per year on such advocacy;
- any other organization will be denied a grant if it exceeds the Substantial Political Advocacy Threshold (which will be based on the formula used currently to determine the permissible amount of lobbying by 501(c)(3) charitable tax filers) for any 1 of the previous 5 Federal fiscal years (excluding years prior to 1996);
- grantees will be required to agree not to engage in substantial political advocacy during a year in which they control Federal grant funds;

(See other side)

YEAS (46)

Republicans (46 or 90%)		Democrats (0 or 0%)
Abraham	Hatfield	
Ashcroft	Helms	
Bennett	Hutchison	
Bond	Inhofe	
Brown	Kassebaum	
Burns	Kyl	
Chafee	Lott	
Coats	Mack	
Cochran	McCain	
Cohen	McConnell	
Coverdell	Murkowski	
Craig	Nickles	
D'Amato	Pressler	
DeWine	Roth	
Domenici	Santorum	
Faircloth	Shelby	
Frist	Simpson	
Gorton	Smith	
Gramm	Stevens	
Grams	Thomas	
Grassley	Thompson	
Gregg	Thurmond	
Hatch	Warner	

NAYS (49)

Republicans (5 or 10%)	Democrats (44 or 100%)	
Campbell	Baucus	Johnston
Dole	Biden	Kennedy
Jeffords	Bingaman	Kerrey
Snowe	Boxer	Kerry
Specter	Breaux	Kohl
	Bryan	Lautenberg
	Bumpers	Leahy
	Byrd	Levin
	Conrad	Lieberman
	Daschle	Mikulski
	Dodd	Moseley-Braun
	Dorgan	Moynihan
	Exon	Murray
	Feingold	Nunn
	Feinstein	Pell
	Ford	Pryor
	Glenn	Reid
	Graham	Robb
	Harkin	Rockefeller
	Heflin	Sarbanes
	Hollings	Simon
	Inouye	Wellstone

NOT VOTING (4)

Republicans (2)	Democrats (2)
Kempthorne-[2]	Akaka-[2]
Lugar-[2]	Bradley-[4]

EXPLANATION OF ABSENCE:
1—Official Buisiness
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

Compiled and written by the staff of the Republican Policy Committee—Don Nickles, Chairman

- grants to an affiliate of an organization will be counted as grants to that organization;
- grantees will be subject to congressional audits;
- grantees will annually disclose their lobbying activities;
- grantees will only use grant funds for the purposes for which they were given;
- grantees will not give grant funds to entities that are ineligible to receive Federal grants; and
- based on the current Federal law used to recover funds from contractors who defraud the Government, qui tams provisions will be enacted (which will allow private citizens to bring actions on behalf of the Government).

The Simpson perfecting amendment to the language proposed to be stricken would also strike that language and would enact the following new restrictions on lobbying by tax-exempt organizations that received grants from the Federal Government: organizations that filed under 501(c)(4) of the tax code and that had gross annual revenues in excess of $3 million could not accept Federal grants and lobby the Government (legally separate organizations could be formed if organizations wanted to receive public funds and lobby); and all organizations that received Federal grants in excess of $125,000 annually would be subject to a modified version of the 501(h) formula that is currently used to limit lobbying by 501(c)(3) organizations that receive public funds. The 501(c)(3) formula allows organizations to spend a portion of their total revenues on lobbying. That formula is capped at $1 million; an organization reaches that cap under the formula when its total revenues reach $17 million. The modified version of the formula in this amendment would allow an organization to spend on lobbying 1 percent of any additional amounts it spent in a year in excess of $17 million. The amendment would also require each organization that received Federal grants to report each year that it spent less than $25,000 on lobbying or else to disclose an estimate of how much it spent as well as how much it received in grants. Finally, the amendment would define "grant" to mean the provision of any Federal funds to carry out a public purpose (certain exceptions, such as for nonmonetary assistance from the Department of Veterans Affairs, would be made), and it would use the definitions for "lobbying" and related terms as they were set forth in the lobbying reform bill which passed the Senate July 25, 1995 (see vote No. 328). (For related debate, see vote No. 325).

The Craig modified second-degree substitute amendment to the Simpson amendment would enact provisions with the same effect as the provisions of the Simpson amendment.

NOTE: Following the vote, the Senate agreed by voice vote to reconsider the vote, and, upon reconsideration, the amendment was agreed to (see vote No. 565). The underlying Simpson amendment was then agreed to by voice vote, and, by unanimous consent, the Campbell amendment, a Simpson substitute amendment to the language proposed to be stricken, and a Craig perfecting amendment to the Simpson substitute amendment were withdrawn.

Those favoring the amendment contended:

This amendment would ensure that taxpayers will not be forced to pay for lobbying by special interest groups. First, it would forbid lobbying by 501(c)(4) organizations that had gross revenues in excess of $3 million if those organizations also received Federal grants. The reason for that restriction is that 501(c)(4) tax filers have no requirement that they keep grant funds that they receive separate from funds that they use for lobbying. These organizations are not charities--they are large, tax-exempt organizations like the American Association of Retired People (AARP), the National Rifle Association (NRA), the Heritage Foundation, and similar organizations that spend enormous sums on lobbying. Many of these groups also receive enormous sums from the Federal Government. For example, the AARP received $86 million from the Federal Government in one year. All of that money was supposed to be spent on certain purposes, and none of it by law was to be spent on lobbying. However, for 501(c)(4) filers, the fungibility of money makes the law against lobbying with public funds meaningless. The Government gives the AARP grants to engage in activities which it will engage in whether it receives grants or not--thus, the more the AARP receives for those activities, the more resources it will free up for it to lobby the United States Government for law changes, and, of course, for more money. We are not saying that the AARP or any other 501(c)(4) organization is misusing Federal funds--we are saying that the way the law is structured it is impossible to say whether or not funds are being misused. The Craig amendment would correct this problem for the largest 501(c)(4) organizations by making them decide either to lobby or to receive Federal grants, or to break into two legally separate organizations with separate accounting systems if they felt compelled to do both. This solution would result in a strict segregation of public funds and lobbying funds. Overall, a little over 1,000 organizations would be affected. The Senate earlier agreed to impose this restriction on all 501(c)(4) organizations (see vote No. 325); this portion of the amendment should therefore be noncontroversial.

The next part of the amendment would impose a liberalized version of the lobbying restrictions that apply to 501(c)(3) charitable organizations that receive Federal grants to all recipients of Federal grants above a threshold amount. Those Senators who have complained that we are treating for-profit and nonprofit companies differently are mistaken--this language covers all organizations. Most of the organizations that receive the $39 billion given yearly in grants are 501(c)(3) organizations, and not once has one of those organizations run afoul of the current limits. More than 90 percent of Federal grantees already live under lobbying restrictions more severe than the restrictions that are in the Craig amendment; we are therefore surprised that some Senators have said that they think that they would prove onerous in practice.

The next substantive part of the Craig amendment is that it would impose a reporting requirement. Any organization that received more than $25,000 in grants in a year would have to disclose that fact and also provide an estimate of the amount it spent on lobbying. Organizations already keep these records anyway. Our colleagues act as though we are imposing some new, burdensome accounting rule, but we see this reporting requirement as being extremely minimal. It is nowhere as severe as the type of strict recordkeeping and reporting requirements that are placed on for-profit contractors who receive Federal funds.

The rest of the Craig amendment, which consumes most of its 17-page length, provides definitions. The senior Senator from Michigan has complained mightily about the complexity of this 17-page amendment. However, the fact of the matter is that we copied most of these definitions word-for-word from the lobbying reform bill, which the senior Senator from Michigan authored. Thus, most of this 17-page amendment was written by the senior Senator from Michigan. We found these definitions acceptable when we voted for them on the lobbying reform bill, and we find them acceptable now.

The Craig amendment is a watered-down version of the reforms in the House bill. We have offered it because we know that the House language has no chance of passing the Senate. For anyone who is concerned that the House will demand stronger language than is in the Craig amendment, we inform our colleagues that the House Republican leadership has indicated that they will accept any language that passes the Senate. Senators who vote in favor of the modest reforms in the Craig amendment can rest assured that they will survive intact.

A few rather feeble claims have been made by some Democrats that continuing resolutions should never have extraneous issues attached. These claims would carry more weight with us if Democrats in years past had followed their own counsel. However, as any Senator who has been here for more than a few years can testify, Democrats have a long history of attaching major legislation to continuing resolutions.

The language in the Craig amendment and in the underlying Simpson amendment is truly compromise language, the major part of which the Senate has already passed. The principle these amendments advance is simple: the American people should not be taxed to support lobbying by special interest groups that are often promoting causes most Americans do not favor. We urge Senators to support this principle by supporting this amendment.

Those opposing the amendment contended:

The Craig and Simpson amendments undoubtedly are a huge improvement over the so-called Istook language that is in the House bill. The Istook language would put such extreme conditions on non-profit organizations that it would make them all have to choose between either lobbying or receiving Federal grants. If we pass these amendments, a compromise provision will then have to be sought. The result will be further delay. This issue is of such paramount importance, raising so many free speech questions and questions of basic fairness, that it deserves very lengthy consideration. Such consideration is not possible on a continuing resolution bill. This resolution must be passed quickly or entire Departments and agencies of the Federal Government will be seriously disrupted. Our colleagues are thus attempting legislative blackmail.

The force that is driving this amendment is revenge. Certain House Members are upset at the opposition they received in the recent election from a few nonprofit organizations. They are now striking back with the punitive Istook language. Big, for-profit organizations like the National Beer Wholesalers are egging them on, anxious to dry-up funding for organizations like Mothers Against Drunk Driving (MADD).

Even if the House accedes to the Senate's language we will not be pleased. The Craig and Simpson amendments do not simply reiterate the 501(c)(4) restrictions which the Senate earlier passed. New, complex requirements which we have not had sufficient time to analyze would also be imposed. For instance, every organization that received more than $25,000 in grants would have to meet new reporting requirements, and every organization that received more than $125,000 in grants would have lobbying restrictions applied to it. In total, we are being asked to accept with very little debate and no hearings 17 detailed pages of legislation that will have an enormous impact on thousands of organizations.

The Senate should not proceed in this fashion. On a separate bill, after due deliberation and hearings, it would be appropriate to vote on these tax-code changes. Agreeing to them now in furtherance of a vendetta by House Members would be a terrible mistake. We therefore urge the rejection of the Craig amendment and the underlying Simpson amendment.